

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**HALL ARTS CENTER OFFICE, LLC,
PLAINTIFF,**

V.

CIVIL ACTION NO. _____

**HANOVER INSURANCE COMPANY,
DEFENDANT.**

[JURY DEMANDED]

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant, HANOVER INSURANCE COMPANY (herein “Defendant” or “Hanover”), and files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and would show this Court as follows.

I. PROCEDURAL HISTORY

1. On October 11, 2016, Plaintiff, Hall Arts Center Office, LLC (“Plaintiff”) filed its Original Petition and initiated an action against Defendant, Hanover, in the 44th Judicial District Court of Dallas County, Texas, in Cause No. DC-16-13375 (the “State Court Action”). See Exhibit “A” attached hereto and incorporated herein by reference.

2. Hanover was served on October 21, 2016, with a copy of the Citation and Plaintiff's Original Petition. See Exhibit "E" for a copy of the Citation attached hereto and incorporated herein by reference. Hanover has filed an answer in the State Court Action. Attached as Exhibit "F" is Hanover's Answer.

3. Defendant's Notice of Removal was filed on November 17, 2016, which is within the thirty-day statutory time period for removal under 28 U.S.C. § 1446(b).

II. FACTUAL BACKGROUND

4. Hanover provided builders' risk coverage to Plaintiff under Policy No. IHD-9935566 for the property located at 2323 Ross Ave., Dallas, Texas 75201 (the "Property"), effective August 22, 2014 to March 8, 2015 (the "Policy").

5. This suit arises out of a claim for lost rents and soft costs the Plaintiff allegedly sustained for physical damage to property during construction of the building.

6. Hanover does not admit the underlying facts alleged by Plaintiff and expressly denies liability to Plaintiff.

III. DIVERSITY JURISDICTION

7. Plaintiff, Hall Arts Center Office, LLC, is a Texas limited liability company whose principal place of business is in Dallas County, Texas.

8. Defendant, Hanover, is a New Hampshire corporation, duly authorized and existing under the laws of the State of New Hampshire, with its principal place of business in the Commonwealth of Massachusetts.

9. Removal is proper because there is complete diversity between the parties.

10. The "matter in controversy" under 28 U.S.C. § 1332(a) is determined by reference to the plaintiff's pleadings. The damages the Plaintiff claims in its petition, if apparently claimed in good faith, are controlling. *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938). Plaintiff has pled that it seeks damages in excess of \$1,000,000.00 in its Petition at paragraph no. 1. See Exhibit "A." Thus, the total economic damages and attorneys' fees being sought are well in excess of the \$75,000 jurisdictional minimum amount in controversy.

INFORMATION FOR THE CLERK

11. Plaintiff: Hall Arts Center Office, LLC
12. Defendant: Hanover Insurance Company
13. The case is pending in the 44th Judicial District Court of Dallas County:
Honorable Judge Bonnie Lee Goldstein
George L. Allen, Sr. Courts Building
600 Commerce Street
5th Floor New Tower
Dallas, TX 75202
Phone: (214) 653-7427
14. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, Defendant has attached copies of all processes and pleadings served upon it in the state court action. No further proceedings have been had therein. Pursuant to Local Rule 81, a copy of the trial court's docket sheet is attached as Exhibit "G" and an Index of Matters Being Filed is attached.
15. There are no other pleadings in state court.
16. Counsel for Plaintiff:
Constantine Z. Pamphilis
KASOWITZ BENSON TORRES & FRIEDMAN, LLP
700 Louisiana Street, Suite 2200
Houston, TX 77002
Phone: 713.220.8800
E-Mail: DPamphilis@kasowitz.com
17. Counsel for Defendant, Hanover:
Peri H. Alkas
Laura B. Englert
PHELPS DUNBAR LLP
500 Dallas, Suite 1300
Houston, Texas 77002
Phone: 713-626-1386
E-Mail: peri.alkas@phelps.com
larua.englert@phelps.com

Jury Demand

18. Plaintiff demanded a jury trial in state court.

19. Defendant demanded a jury trial in state court and hereby request a trial by jury in federal court as well.

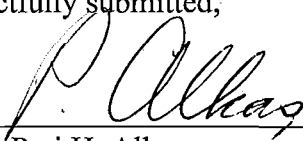
Miscellaneous

20. On the same day this Notice of Removal was filed, Defendant filed notice of this removal in the State Court Action. A copy of this Notice of Removal filed in the State Court Action is attached as Exhibit "I."

21. Because Plaintiff is a Texas corporation; Defendant is a business organized under laws of New Hampshire and having its principal place of business in Massachusetts; and the amount in controversy exceeds \$75,000, the Court has subject matter jurisdiction based on diversity of citizenship and residency. 28 U.S.C. § 1132. As such, this removal action is proper.

WHEREFORE, Defendant, Hanover Insurance Company, respectfully requests that the above entitled action be removed from the 44th District Court of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

By: _____

Peri H. Alkas

ATTORNEY-IN-CHARGE

State Bar No. 00783536

Federal Bar No. 15785

PHELPS DUNBAR, LLP

500 Dallas, Suite 1300

Houston, Texas 77002

Telephone (713) 626-1386

Facsimile (713) 626-1388

Email: peri.alkas@phelps.com

**ATTORNEY-IN-CHARGE FOR DEFENDANT,
HANOVER INSURANCE COMPANY**

OF COUNSEL:

PHELPS DUNBAR LLP

Laura Balhoff Englert

Texas Bar No. 24055135


laura.englert@phelps.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all known counsel of record as listed below by placing a copy of same in the United States mail, certified, return receipt requested, facsimile, electronically, and/or hand delivery on November 17, 2016.

Constantine Z. Pamphilis
KASOWITZ BENSON TORRES & FRIEDMAN, LLP
700 Louisiana Street, Suite 2200
Houston, TX 77002

E-MAIL: DPamphilis@kasowitz.com
VIA CM/RRR: 7014 3490 0000 3310 7327



Peri H. Alkas